

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Southern Division

JEFF SCHMIDT,)	
)	
Plaintiff,)	
v.)	Civil Action No.: 8:04-cv-3774 (AW)
)	
AMERICAN INSTITUTE OF PHYSICS)	
)	
Defendant.)	
)	

**PLAINTIFF'S RESPONSE TO DEFENDANT'S FIRST SET OF
WRITTEN INTERROGATORIES**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Rule 104,

Plaintiff Jeff Schmidt hereby responds to Defendant's First Set of Written Interrogatories.

GENERAL OBJECTIONS

1. Plaintiff objects to each instruction, definition and interrogatory to the extent that it seeks information that is protected by the attorney-client privilege and/or the attorney work-product doctrine.
2. Plaintiff objects to each instruction, definition and interrogatory to the extent that it seeks to impose obligations on Plaintiff beyond those that are required by the Federal Rules of Civil Procedure.
3. Plaintiff objects to each interrogatory to the extent that it is not limited in time and is therefore vague and ambiguous.

OBJECTIONS TO INSTRUCTIONS

1. Plaintiff objects to the Defendant's definitions of "Identify" on the ground that the definitions seek to impose obligations on Plaintiff beyond those required by the Federal Rules of Civil Procedure and Local Rules of the District Court of Maryland. Plaintiff further objects to the Defendant's definitions of "Identify" on the ground that, as defined, the interrogatories that incorporate the term are unduly burdensome.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Identify each and every person you believe has knowledge of any facts relating to your claims in this action. Please state, as to each and every individual identified in response to this interrogatory:

- (a) the name, current or last known business and home telephone numbers, address and, if applicable, title during employment with Defendant;
- (b) the substance of all information or knowledge about the pertinent facts believed to be known; and,
- (c) whether any statement or account, either orally or in writing, of his or her knowledge of the pertinent facts was made or given and, if a written statement was made or and [sic] custodian of such statement.

RESPONSE TO INTERROGATORY NO. 1

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects on the ground that the interrogatory seeks information that is protected by the attorney-client privilege and/or the attorney work-product privilege. Plaintiff is aware of no statement or account made or given by the following individuals. With respect to the current or last known information requested, Defendant is in a better position to have or obtain that information for former Physics Today employees, but Plaintiff will provide that information to the extent he has it. Subject to and without waiving the foregoing objections,

Plaintiff answers that the following individuals possesses knowledge of any facts relating to the claims in this action:

Joseph Auslander

Department of Mathematics
University of Maryland
College Park, MD 20742

University of Maryland mathematician who helped to bring the issue of Plaintiff's dismissal to the Executive Committee of the University Senate.

Judith Barker

American Institute of Physics
Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Stephen G. Benka

American Institute of Physics
Physics Today supervisor with knowledge of virtually all issues and allegations in the Complaint.

Theresa Braun

American Institute of Physics
AIP director of human resources with knowledge of virtually all issues and allegations in the Complaint.

Marc H. Brodsky

American Institute of Physics
AIP CEO and Executive Director with knowledge of virtually all issues and allegations in the Complaint.

Peter Brown

Natural History Magazine
36 West 25th Street, Fifth Floor
New York, New York 10010

Former Physics Today managing editor who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Denis Cioffi

Department of Management Science
George Washington University
2121 G Street NW

Washington, DC 20052

Former Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Graham Collins

Scientific American

415 Madison Avenue

New York, NY 10017

Former Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint including, but not limited to, AIP's use of gag orders.

Charles Day

American Institute of Physics

Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Paul Elliott

5248 Mitchell Street

Alexandria, VA 22312

Former Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint, including, but not limited to, AIP's implementation of a ban on private conversations in the workplace.

Toni Feder

American Institute of Physics

Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint, including, but not limited to, AIP's implementation of a ban on private conversations in the workplace.

Richard J. Fitzgerald

Former Physics Today coworker with knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Kenneth Ford

American Institute of Physics

Former AIP CEO and Executive Director who worked with Plaintiff with knowledge of Plaintiff's work.

Susan Funk

American Institute of Physics

Former Physics Today coworker with knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Tonya Gary

American Institute of Physics

Physics Today staff member who worked with Plaintiff, has knowledge of his work and is believed to have general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Edward Gerjuoy

Department of Physics and Astronomy

University of Pittsburgh

Pittsburgh, PA 15260

Former American Physical Society Council member with knowledge of debate within Council regarding Plaintiff's termination.

Daniel Gladstone

P.O. Box 182

Southold, NY 11971

Former Physics Today staff member who worked with Plaintiff and has knowledge of his work.

Irwin Goodwin

American Institute of Physics

Former Physics Today staff member who worked with Plaintiff, has knowledge of his work and has general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Charles Harris

Natural History Magazine

36 West 25th Street, Fifth Floor

New York, New York 10010

Former head of AIP's Physics Today division who has knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Alexander Hellemans

874 Via Marina di Chiaiolella, 10

80079 Procida (NA)

Italy

Former Physics Today staff member with knowledge of Plaintiff's work and the policy and/or practice of outside writing at AIP.

Paul Hersch

American Institute of Physics

Former Physics Today managing editor with knowledge of Plaintiff's work and has general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Jesse Hochstadt

Department of Cognitive and Linguistic Sciences

Brown University

Providence, RI 02912

Former Physics Today coworker who reviewed Plaintiff's work and has knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Marlowe Hood

26 rue Le Brun

75013 Paris

France

Former Physics Today coworker with knowledge of Plaintiff's work and the policy and/or practice of outside writing at AIP.

Jay J. Iorio

Standards Activities

Institute of Electrical and Electronics Engineers

445 Hoes Lane

Piscataway, NJ 08855

Former Physics Today coworker with knowledge of Plaintiff's work.

Warren Kornberg

American Institute of Physics

Former Physics Today coworker with knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Jean Kumagai

IEEE Spectrum

3 Park Avenue, 17th floor

New York, NY 10016

Former Physics Today coworker with knowledge of Plaintiff's work and virtually all issues and allegations in the Complaint.

Ray Ladbury

American Institute of Physics

Former Physics Today coworker with knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Barbara G. Levi

American Institute of Physics

Former Physics Today coworker with knowledge of Plaintiff's work.

Gloria B. Lubkin

American Institute of Physics

Former Physics Today supervisor with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Wallace Manheimer

Individual who investigated the circumstances of Plaintiff's termination and has general knowledge regarding same.

Kenneth McNaughton

3778 College Avenue

Ellicott City, MD 21043

Former Physics Today managing editor with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Christopher Mohr

2330 22nd Avenue

San Francisco, CA 94116

Former Physics Today coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint and the policy and/or practice of outside writing at AIP. Mr. Mohr authored the May 15, 2002 statement regarding the investigation of Plaintiff's termination, which bears the bates identification label S 001403.

Randolph A. Nanna

American Institute of Physics

Head of AIP's Physics Today division with knowledge of virtually all issues and allegations in the Complaint.

Elliot Plotkin

American Institute of Physics

Physics Today staff member who worked with Plaintiff, has knowledge of Plaintiff's work and has general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Corey Powell

Discover Magazine

114 Fifth Avenue

New York, NY 10011

Former Physics Today coworker with knowledge of Plaintiff's work and has general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Sharon J. Quarles

American Institute of Physics

Physics Today coworker with knowledge of Plaintiff's work and Plaintiff's book *Disciplined Minds*.

Michelle Reed

Acquaintance of Plaintiff who visited Physics Today workplace, discussed workplace issues with Plaintiff and Plaintiff's coworkers.

John Rigden

American Institute of Physics

Former head of AIP divisions, including Physics Today, with knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Phillip F. Schewe

American Institute of Physics

Former AIP coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Bertram M. Schwarzschild

American Institute of Physics

Former Physics Today coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Andrew Sessler

Lawrence Berkeley National Laboratory

1 Cyclotron Road

Berkeley, CA 94720

Physicist with knowledge of Plaintiff's work and active in the American Physical Society and the discussion of Plaintiff's termination.

Matthew Siegel

179 Park Place #9

Brooklyn, NY 11238

Former Physics Today coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Benjamin P. Stein

American Institute of Physics

Former AIP coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

James Stith

American Institute of Physics

Head of AIP divisions, including Physics Today, with knowledge of virtually all issues and allegations in the Complaint.

William Sweet

IEEE Spectrum

3 Park Avenue, 17th floor

New York, NY 10016

Former Physics Today coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint and the policy and/or practice of outside writing at AIP. Mr. Sweet authored the May 9 and July 15, 2002 statements regarding an investigation of Plaintiff's termination, which bear the bates identification labels S 001401-1402.

Ruth Viera

American Institute of Physics

Former Physics Today coworker with knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Spencer Weart

American Institute of Physics

Head of AIP's Center for History of Physics with knowledge of Plaintiff's work.

Rita Wehrenberg

American Institute of Physics

Physics Today staff member who worked with Plaintiff, has knowledge of Plaintiff's work and has general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

Ellen J. Zeman

Provost and Academic Affairs Office

Champlain College

Burlington, VT 05401

Former Physics Today coworker with knowledge of Plaintiff's work and general knowledge of the workplace issues raised by Plaintiff as detailed in the Complaint.

INTERROGATORY NO. 2:

State with particularity the nature, basis, amount, and manner of computation of each element of monetary relief you are seeking upon each claim asserted in the Complaint, and provide a detailed description of the nature of and basis for any equitable or other relief you are seeking. Identify each and every document used to assemble or compile the information requested in this Interrogatory.

RESPONSES TO INTERROGATORY NO. 2:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects on the ground that the interrogatory seeks information that is protected by the attorney-client privilege and/or the attorney work-product privilege. Subject to and without waiving the foregoing objections, Plaintiff states that he is seeking monetary, compensatory and equitable relief for all damages suffered including, but not limited to, reinstatement, injunctive relief barring future acts of retaliation and damages caused by Defendant's unlawful acts or omissions. The nature and calculation of damage claims to date, and the documents upon which calculations are based, can be found in the expert report of Dr. Amy McCarthy, served on Defendants on or about April 11, 2005.

INTERROGATORY NO. 3:

Identify each and every employer by whom Plaintiff was employed during the years 1998 through the present, and list:

- (a) the current or last known address and telephone number of each employer;
- (b) the date(s) of each such employment or consulting engagement;
- (c) the job title(s) held by Plaintiff and duties performed during each such employment or consulting engagement;
- (d) your rate(s) of pay and the nature of all employee benefits which you received or were eligible to receive during each such employment (e.g., vacation, personal or sick days, life insurance, health insurance, retirement plan, profit-sharing plan, etc.);
- (e) the reasons for cessation of each such employment or engagement, if applicable (including but not limited to a statement as to whether the cessation of such employment or engagement was voluntary or involuntary); and
- (f) the date you were offered the position.

RESPONSE TO INTERROGATORY NO. 3:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he was employed as an Account Executive with Card Payment Solutions in the fall of 2003, located at 4213 State Street, Suite 303, Santa Barbara, California 93110. Plaintiff's further states that he was employed in sales and that his compensation was on a commission basis. Finally, Plaintiff states that he received no commissions or benefits and has left his position with Card Payment Solutions in the fall of 2003 to pursue employment in other fields of employment, including, but not limited to, the field of physics.

INTERROGATORY NO. 4: State whether Plaintiff applied for unemployment compensation, disability benefits, workers' compensation or other public assistance benefits (including, but not limited to, welfare, medicaid, any food stamp program, etc.) since cessation of his employment with Defendant and, if benefits were received, state the period for which he received those benefits, the amount of such benefits, and the date(s) of any hearings held on his claim for benefits.

RESPONSE TO INTERROGATORY NO. 4:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he sought and received unemployment benefits. See documents bearing bates identification labels S1141 (\$6,500.00) and S1142 (\$3,250.00).

INTERROGATORY NO. 5: Identify the existence, custodian of and state the location and general description of all written or otherwise recorded statements provided by or obtained from any person concerning the allegations that Plaintiff suffered unlawful retaliation.

RESPONSE TO INTERROGATORY NO. 5:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he has produced the only recorded statements in his possession, custody or control concerning the allegation that Plaintiff suffered unlawful retaliation in response to Defendant's First Set of Requests for the Production of Documents. These documents include those bearing the bates identification labels: S 000522-582, S 000622-626, S 000631-674, S 000720-793, S 000794-812, S 000830-836, S 000841-847, S 000861-863, S 000885-887, S 000912-915, S 001031-1048, S 001058-1086, S 001143-149, S 001167-177, S 001181-85, S 001187-1192, S 001259-1260, S 001264-1273, S 001347-1545, S 001548-1593, S 001599-1613, S 001900-1906, S 001956-2102, S 002162-2165, S 002168-2177.

INTERROGATORY NO. 6: Identify each and every employer or potential employer that was contacted by Plaintiff and any other efforts made to obtain employment since cessation of his employment with Defendant. For each such employer or potential employer, state the date(s) of each such contact; whether he was offered employment, and, if so, the nature and/or title of the job offered; whether Plaintiff accepted or rejected that offer of employment, and, if so, the date of and reason for each rejection.

RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he sought employment from over one hundred potential employers. Plaintiff states that he received an offer of employment from Card Payment Solutions in the fall of 2003 as an Account Executive, but received no other offers of employment. Plaintiff further states that the remainder of the answer to Interrogatory No. 6 may be derived or ascertained from the documents that Plaintiff produced in response to Defendant's First Set of Request for the Production of

Documents. Specifically, Plaintiff has produced records of job applications and correspondence with dozens of employers from whom he sought employment following his dismissal by AIP. Aside from the Plaintiff's employment with Card Payment Solutions in the fall of 2003, plaintiff was not extended any offers of employment.

INTERROGATORY NO. 7: Identify all documents relating to, and state the basis of, any grievances or complaints that Plaintiff made regarding discrimination or any other wrongful conduct by any employee, supervisor or other representative of Defendant during the time that he was employed by Defendant and state, for each grievance or complaint, the nature and basis of each grievance or complaint; the name of the person to whom each grievance or complaint was made; the action(s) taken by such persons in response to said grievance or complaint; and, the date when each grievance or complaint was made.

RESPONSE TO INTERROGATORY NO. 7:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that the grievances and complaints that he made are detailed with specificity in the Complaint. Plaintiff further states that the remainder of the answer to Interrogatory No. 7 may be derived or ascertained from the documents that Plaintiff produced in response to Defendant's First Set of Request for the Production of Documents. Plaintiff produced documents relating to Plaintiff's grievances and complaints including the documents within Plaintiff's possession, custody or control that set forth the nature and basis of each complaint; the name of the person to whom each grievance or complaint was made; the action(s) taken by such person(s), if any, in response to said grievance or complaint; and, the date when each grievance or complaint was made.

INTERROGATORY NO. 8: Has Plaintiff ever suffered any illness or personal injury or been involved in any accident of any kind, nature, or description whatsoever which caused pain and

suffering or which prevented Plaintiff from working since cessation of his employment with Defendant? If so, please state:

- (a) The date of each such illness and the date and place where each such injury or accident occurred;
- (b) The names and present addresses of any other person or persons involved; and,
- (c) The names and addresses of any and all doctors who attended, examined or rendered treatment or the hospitals, medical institutions, or clinics to which you were confined or where you received medical attention for each such personal illness, injury or accident.

RESPONSE TO INTERROGATORY NO. 8:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he does not claim to have suffered any illness or personal injury or to have been involved in any accident that prevented him from working since AIP terminated his employment.

INTERROGATORY NO. 9: Identify each employee, supervisor or other representative of Defendant who Plaintiff contends committed or participated in acts of retaliation against Plaintiff, specifying the name of the individual and the nature and date of each retaliatory act.

RESPONSE TO INTERROGATORY NO. 9:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that the grievances and complaints that he made are detailed with specificity in the Complaint. Plaintiff further states that the remainder of the answer to Interrogatory No. 9 may be derived or ascertained from the documents that Plaintiff produced in response to Defendant's First Set of Request for the Production of Documents, including, but not limited to S 000649-666. Plaintiff

also recently has received Defendant's documents, which provide additional information regarding individuals at AIP who committed or participated in acts of retaliation against Plaintiff.

INTERROGATORY NO. 10: Identify each person whom Plaintiff intends to call as an expert witness at trial, and as to each such person, state the subject matter on which the expert is expected to testify and provide a description of the substance of the anticipated testimony.

RESPONSE TO INTERROGATORY NO. 10:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he intends to call Dr. Amy McCarthy to testify regarding the damage calculations presented in her April 11, 2005 report and any supplemental reports. Plaintiff reserves the right to call additional witnesses as a result of further discovery.

INTERROGATORY NO. 11: State whether Plaintiff was a party to a contract of any kind with Defendant and identify (i) the parties to the alleged contract; (ii) whether it was written or oral; (iii) the date on which it was formed; (iv) the individuals who negotiated or otherwise participated in the formation of the contract; (v) all material terms of the contract (including without limitation its duration, the consideration on behalf of each party thereto and the respective obligations of the parties); (vi) any act constituting a breach of the contract (including without limitation the individual who committed the act and the date of each such act); and, (vii) the nature and amount of any damages attributable to such acts. Identify each and every document used to assemble or compile the information requested in this Interrogatory.

RESPONSE TO INTERROGATORY NO. 11:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that the grievances and complaints that he made are detailed with specificity in the Complaint. Plaintiff

further responds that Plaintiff and Defendant were parties to an employment contract based on an agreement that Plaintiff's job would not be jeopardized by Plaintiff bringing concerns to the attention of his superiors. Plaintiff's decision to continue his employment was based on Defendant's offers. Defendant breached the agreement when it fired Plaintiff in retaliation for Plaintiff's expressions of his concerns. Specifically, his concern about Defendant's discriminatory hiring and employment practices. Finally, Plaintiff states that the remainder of the answer to Interrogatory No. 11 may be derived or ascertained from the documents that Plaintiff produced in response to Defendant's First Set of Request for the Production of Documents, including, but not limited to S 000583-619, S 000630, S 000919-921, S 000928-945, S 001023-26 and S 001614-1897. Additionally, Plaintiff incorporates the expert report of Dr. Amy McCarthy, served on Defendants on or about April 11, 2005.

INTERROGATORY NO. 12: Please identify each and every document which Plaintiff contends supports the allegations of wrongdoing by Defendant or which relates to efforts made by Plaintiff to obtain relief from those acts while he was employed by Defendant and since that time. For each document so identified, please identify the author, custodian, location, subject and general description thereof.

RESPONSE TO INTERROGATORY NO. 12:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that the grievances and complaints that he made are detailed with specificity in the Complaint. Plaintiff further states that the remainder of the answer to Interrogatory No. 12 may be derived or ascertained from the documents that Plaintiff produced in response to Defendant's First Set of Request for the Production of Documents. Additional support for Plaintiff's allegations of wrongdoing are found in documents produced by Defendants.

INTERROGATORY NO. 13: With regard to allegations in paragraphs 59 and 66 of Plaintiffs Complaint, identify: 1) the specific language supporting Defendant's alleged promise "that job security would be based on work performance"; 2) any documents through which these policies or promises were expressed in writing; and, 3) if the policy was expressed orally, who articulated the policy, when the policy was articulated, whether there were any witnesses to the articulation of the policy, and what was Plaintiff's response, if any. Identify each and every document used to assemble or compile the information requested in this Interrogatory.

RESPONSE TO INTERROGATORY NO. 13:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects to this interrogatory on the ground that it is duplicative of Interrogatory No. 11. Subject to and without waiving the foregoing objections, Plaintiff refers Defendant to the foregoing Response to Interrogatory No. 11.

INTERROGATORY NO. 14: Identify each and every employer who offered Plaintiff a position of employment subsequent to his employment with Defendant, and state:

- (a) the current or last known address and telephone number of each employer;
- (b) the date(s) of each such employment;
- (c) the terms of the offer including, your rate(s) of pay and the nature of all employee benefits which you were eligible to receive (e.g., vacation, personal or sick days, life insurance, health insurance, retirement plan, profit-sharing plan, etc.); and
- (d) whether or not you accepted the position(s) and the reason(s) therefor.

RESPONSE TO INTERROGATORY NO. 14:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects to this interrogatory to the extent that it is duplicative of Interrogatory Nos. 3 & 6. Subject to and without waiving the foregoing objections, Plaintiff

states that he was employed by Card Payment Solutions in the fall of 2003 and further refers Defendant to Plaintiff's response to Interrogatory Nos. 3 & 6.

INTERROGATORY NO. 15: Do you seek damages under any claim for emotional distress, mental anguish, pain and suffering or other non-economic losses? If so, state the precise nature, amount and manner of calculation of any such damages.

RESPONSE TO INTERROGATORY NO. 15:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he does seek damages for emotional distress, mental anguish and pain and suffering caused by the conduct alleged in the Complaint. Plaintiff states that he is unable to calculate the amount of such damages with precision, but believes that such damages must be determined by the jury, in the exercise of their own life experiences and sound judgment.

INTERROGATORY NO. 16: If the answer to the preceding interrogatory is affirmative, identify by name, current address and telephone number, each and every hospital, expert, doctor or health care professional who has treated, examined or consulted with Plaintiff within the last ten (10) years (for any mental health professional – e.g., psychiatrist, psychologist, social worker -- identify for Plaintiff's entire lifetime) and specifically identify:

- (a) The dates of any consultation, examination or treatment;
- (b) The purpose of each such consultation, examination or treatment;
- (c) Whether any written report or memorandum was prepared by such individual relative to the consultation, examination or treatment; and,
- (d) The physical location of the medical records of the treating physician or health care professional.

RESPONSE TO INTERROGATORY NO. 16:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Subject to and without waiving the foregoing objections, Plaintiff states that he has not to date sought treatment for any of the non-economic losses identified in Interrogatory No. 15.

INTERROGATORY NO. 17: If the answer to Interrogatory No. 15 is affirmative, state whether Plaintiff ever suffered any illness or personal injury or has been involved in any accident of any kind, nature, or description whatsoever which caused pain and suffering or which prevented Plaintiff from working since cessation of his employment with Defendant. If so, please state:

- (a) The date and places where each such injury or accident occurred;
- (b) The names and present address of any other person or persons involved; and,
- (c) The names and addresses of any and all doctors who attended, examined or rendered treatment or the hospitals, medical institutions, or clinics to which Plaintiff was confined or where Plaintiff received medical attention for each such personal injury or accident.

RESPONSE TO INTERROGATORY NO. 17:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects to this interrogatory on the ground that it is duplicative of Interrogatory Nos. 8 & 16. Subject to and without waiving the foregoing objections, Plaintiff states that he has not suffered any illness or personal injury or been involved in any accident of any kind, nature, or description whatsoever which caused pain and suffering or which prevented Plaintiff from working since Defendant terminated him. Plaintiff further refers Defendant to the foregoing Response to Interrogatory No. 8 & 16.

INTERROGATORY NO. 18: Please identify specifically how Charles Harris “continuously and harshly” criticized Plaintiff after the October 17, 1997 meeting between the Physics Today Advisory Board and Plaintiff. Identify: (1) the dates the criticism took place; (2) the substance of each criticism; (3) the location where the criticism took place; and (4) each and every person who Plaintiff contends has knowledge of the criticism.

RESPONSE TO INTERROGATORY NO 18:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects to this interrogatory to the extent that it is duplicative of Interrogatory No. 9. Subject to and without waiving the foregoing objections, Plaintiff states that the answer sought in Interrogatory No. 18 is detailed with specificity in the Complaint. Plaintiff further states that the answer to this Interrogatory may be derived from documents produced in response to Defendant’s First Request for the Production of Documents. *See, e.g.*, S 655. Finally, Plaintiff states that Harris told Plaintiff that Plaintiff’s action at the Physics Today advisory committee meeting of 17 October 1997 aimed to get Harris fired. Harris told Plaintiff that Plaintiff’s action was an unforgivable offense that obligated Harris to fire Schmidt or eventually drive him out and that gives Harris the moral right to do that by any means. Harris criticized Plaintiff to other Physics Today staff members, encouraging them to adopt a negative attitude toward Plaintiff

INTERROGATORY NO. 19: Set forth whether you have obtained a written or otherwise recorded statement from any person concerning the allegations set forth in the Complaint. If so, state:

- (a) The name and address of the person who gave the statement, and the date the statement was obtained;
- (b) If written, whether signed by this person;

- (c) If oral, the name and address of the person who obtained the statement and the date the statement was obtained;
- (d) Whether the statement was recorded on audiotape or otherwise; and
- (e) If oral, set forth completely the substance of the statement.

RESPONSE TO INTERROGATORY NO. 19:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects to the interrogatory to the extent it seeks information that is protected by the attorney-client privilege and/or the attorney work-product privilege. Subject to and without waiving the foregoing objections, Plaintiff states that he has produced the only recorded statements in his possession, custody or control concerning the allegation that Plaintiff suffered unlawful retaliation in response to Defendant's First Set of Requests for the Production of Documents. The bates ranges for these documents are provided in Plaintiff's Response to Interrogatory No. 5.

INTERROGATORY NO. 20: Please identify the factual basis (with specificity) for your assertion in paragraph 79 of the Complaint that Defendant operated as a "state actor".

RESPONSE TO INTERROGATORY NO. 20:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff further objects on the ground that the Interrogatory calls for a legal conclusion. Subject to and without waiving the foregoing objections, and as stated with greater particularity in the Complaint, Defendant and the University of Maryland are affiliated entities. As Defendant is aware, Plaintiff is seeking discovery on the precise nature of this relationship, and will supplement his response hereto as necessary.

INTERROGATORY NO. 21: Identify all documents referred to in answering these interrogatories.

RESPONSE TO INTERROGATORY NO. 21:

Plaintiff incorporates his general objections and objections to definitions as if fully set forth herein. Plaintiff states that all documents referred to in answering these interrogatories have been referenced in response to the foregoing interrogatories.

Respectfully submitted,



Patricia G. Butler (#12844)
Erik T. Koons (#16396)
Chad R. Murchison (#16293)
HOWREY LLP
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 783-0800
(202) 383-6610 (fax)

Warren Kaplan (#02661)
Bob Bruskin
THE WASHINGTON LAWYERS'
COMMITTEE FOR CIVIL RIGHTS AND
URBAN AFFAIRS
11 Dupont Circle, N.W.
Suite 400
Washington, D.C. 20036
(202) 319-1000
(202) 319-1010 (fax)

Dated: May 25, 2005

Attorneys for Plaintiff
Jeff Schmidt

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, Jeff Schmidt's Response to Defendant's First Set of Written Interrogatories, was served by Fax and Federal Express Overnight Delivery, on May 25, 2005 upon:

Wendy J. Mellk
JACKSON LEWIS LLP
58 South Service Road
Suit 410
Melville, NY 11747



Chad Murchison



1299 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20004-2402
PHONE 202.783.0800
FAX 202.383.6610
A LIMITED LIABILITY PARTNERSHIP

DIRECT DIAL 202.383.6950

May 25, 2005

BY FACSIMILE AND BY POST

Wendy Mellk
JACKSON LEWIS LLP
58 South Service Road
Suite 410
Melville, NY 11747

**Re: Plaintiff's Response to Defendant's First Set of Written
Interrogatories**

Dear Ms. Mellk:

Enclosed please find a signed copy of Plaintiff's Response to Defendant's First Set of Written Interrogatories. A certificate of verification signed by Dr. Jeff Schmidt will be forthcoming. If you have any questions or concerns please contact myself or Erik Koons.

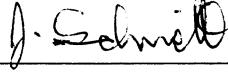
Sincerely,

Chad Murchison

VERIFICATION

I, Plaintiff Jeff Schmidt, declare that: I am authorized to make this declaration and verification; I have read the First Set of Written Interrogatories from Defendant American Institute of Physics; the responses contained in Plaintiff's answers to Defendant's interrogatories are all within my personal knowledge and are true and correct to the best of my knowledge, information and belief. Legal objections to the interrogatories have been stated for me by my attorneys.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Jeff Schmidt

Dated: May 25, 2005